

UNITED STATES DISTRICT COURT
for the WESTERN DISTRICT OF PENNSYLVANIA

CR 99-203

ORDER

This Court subsequent to entering a verdict against Black, determined that the Collateralized Investment Agreements ("CIA") issued by the "pool" evidenced ownership of a common enterprise. This Court has also determined that the assets of that common enterprise were yielding approximately fourteen percent, annually. This Court has also determined that the investors in the common enterprise invested their funds predicated upon a reasonable expectation of profits to be derived from the managerial or entrepreneurial efforts of others.

The grand jury indictment of Black charged him with falsely representing the market value of the CIAs to his clients. However, this Court, upon motion by the government, amended Black's grand jury indictment by eliminating the charge that Black has falsely represented the market value of the CIAs. Therefore, neither the government nor Black had litigated the market value of the CIAs.

The government has admitted that it did not obtain any valuation of the CIAs and did not present to the grand jury any valuation of the CIAs in order to obtain Black's indictment.

Now Black has presented a valuation of the CIAs outstanding, based upon generally accepted accounting principles and in a manner consistent with this Court's orders. That valuation, if accurate, would require the government to pay to the owners of the CIAs a sum of money in excess of \$150 million plus interest since 1997.

Therefore, this Court hereby dismisses the grand jury indictment of Black, which was obtained improperly. This Court also schedules a hearing to determine the market value of the CIAs issued by the common enterprise, the pool. Also, that hearing will determine the value of the two corporations, Financial Management Sciences and Devon Capital Management, owned by Black. The parties will be notified by the Clerk of the Court of the hearing date.

Donetta Ambrose, Judge

12/14/05

Denied. The issues presented in the Motion to Dismiss have been previously litigated and resolved.

Donetta F. Ambrose